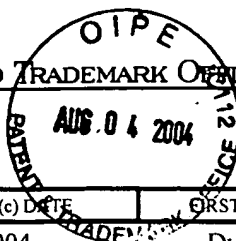




UNITED STATES PATENT AND TRADEMARK OFFICE



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ITW#

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/814,594	03/30/2004	Dylan S. Van Atta	005127.00356

22910  
 BANNER & WITCOFF, LTD.  
 28 STATE STREET  
 28th FLOOR  
 BOSTON, MA 02109-9601

CONFIRMATION NO. 5894

## FORMALITIES LETTER



\*OC000000012927293\*

Date Mailed: 06/14/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 770 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of **\$108** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$1008** for a Large Entity

- **\$770** Statutory basic filing fee.
- **\$130** Late oath or declaration Surcharge.

08/06/2004 MAHME1 00000053 190733 10814594

01 FC:1001	770.00 DA
02 FC:1051	130.00 DA
03 FC:1202	108.00 DA

- Total additional claim fee(s) for this application is **\$108**

- **\$108** for 6 total claims over 20.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

---

*A copy of this notice MUST be returned with the reply.*

M. Stephens  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



PATENT  
ATTORNEY DOCKET NO. 005127.00356

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Confirmation No.: 5894
Dylan S. Van Atta et al.	)	
Serial No.: 10/814,594	)	Examiner: TBA
Filed: March 30, 2004	)	Art Unit: 3765
Title: SWIM CAP WITH MULTIPLE DUROMETERS	)	
	)	

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**CERTIFICATE OF EXPRESS MAIL**

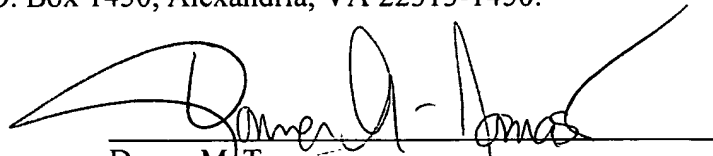
"Express Mail" Label No. **EV 396 914 178 US**

Date of Deposit: **August 4, 2004**

I hereby state that the following:

1. Response to Notice to File Missing Parts of Application;
2. Copy of Notice to File Missing Parts of Nonprovisional Application;
3. FY2004 Fee Transmittal;
4. Joint Declaration and Power of Attorney (executed original);
5. Assignment with Recordation Cover Sheet; and
6. Return Receipt Postcard.

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10, on the date indicated above and is addressed to the Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Donna M. Tomaso  
BANNER & WITCOFF LTD  
28 State Street, 28th Floor  
Boston, MA 02109  
(617) 720-9600



PATENT  
ATTORNEY DOCKET NO. 005127.00356

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Confirmation No.: 5894
Dylan S. Van Atta et al.	)	
Serial No.: 10/814,594	)	Examiner: TBA
Filed: March 30, 2004	)	Art Unit: 3765
Title: SWIM CAP WITH MULTIPLE DUROMETERS	)	
	)	

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION**

Responsive to the Notice to File Missing Parts of Application under 37 CFR 1.53(b), mailed June 14, 2004 (a copy of which is enclosed), Applicant as a large entity submits herewith the following:

1. Copy of Notice to File Missing Parts of Nonprovisional Application;
2. FY2004 Fee Transmittal which includes payment of the filing fees of \$770.00, excess claim fee charge of \$108.00, the surcharge of \$130.00 for late filing of the basic filing fee and declaration; and recordation fee of \$40.00 for one (1) Assignment;
3. An Inventor Declaration in compliance with 37 CFR 1.63;
5. Assignment with Recordation Cover Sheet; and
6. Return receipt postcard.

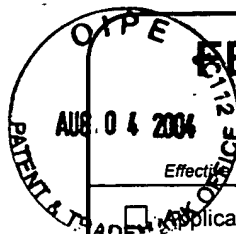
It is understood that this perfects the application and no additional papers or filing fees are required. Please apply the instant filing fees, in the amount of **\$1,048.00**, and any other charges or any credits, to Deposit Account No. 19-0733. A duplicate of this paper is enclosed.

Respectfully submitted,

Dated: August 4, 2004

By Gregory J. Cohan  
Gregory J. Cohan, Reg. No. 40,959  
BANNER & WITCOFF, LTD.  
28 State Street, 28th Floor  
Boston, MA 02109  
(617) 720-9600

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1048

## Complete if Known

Application Number 10/814,594  
Filing Date March 30, 2004  
First Named Inventor Dylan S. Van Atta  
Examiner Name TBA  
Art Unit 3765  
Attorney Docket No. 005127.00356

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number

19-0733

Deposit  
Account  
Name

Banner & Witcoff, LTD.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee  
to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	770
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$ 770)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Total Claims	Extra Claims	Fee from below	Fee Paid
Total Claims	26	-20 ** = 6	X 18	= 108
Independent Claims	3	-3 ** = 0	X 86	= 0
Multiple Dependent	0	X 290	= 0	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$ 108)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	130
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	40.
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 170)

## SUBMITTED BY

Name (Print/Type) Gregory J. Cohan, Esq.

Registration No. (Attorney/Agent) 40,959

Telephone (617) 720-9600

Signature

*Gregory J. Cohan*

Date

August 4, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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